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SUBJECT: IRAN - GERMAN FINANCE MINISTRY SUPPORTS THIRD
UNSCR, EXPRESSES CONCERN ON AUTONOMOUS MEASURES

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(b) and (d).

11. (S) SUMMARY: Post-NIE, the German Finance Ministry agrees with the Chancellery, MFA, and Economics Ministry assessment that Iran's enrichment- and missile-related activities continue to pose a threat. The Finance Ministry supports work toward a strong third UNSCR but also remains sympathetic to German business concerns that other countries, e.g. China and Russia, would "undercut" EU or German autonomous efforts. Officials also emphasize that unless an Iranian bank is the subject of UN or EU listings, German Government regulators require evidence of wrongdoing - e.g., involvement in proliferation-related activities - in order to revoke a bank's operating license or otherwise limit a bank's activities. While German regulators have stepped up their oversight of Iranian banks and related financial activity, Ministry officials emphasize that a bank's decision to limit Iran-related exposure should be driven by its own in-house cost-benefit analysis and assessment of risk. Finance Ministry officials also report new export credit guarantees have been limited to small, short-term transactions and suggested that MinFin would not support a unilateral termination of credit guarantees for Iran. END SUMMARY.

12. (S) ECONCOUNS and ECONOFFS met December 11 with German Finance Ministry Deputy Director General for International Economic and Financial Affairs Rolf Wenzel and Financial Crimes Division Desk Officer Wilfried Etmann to discuss the new U.S. National Intelligence Estimate on Iran (NIE) and to get an update on implementation of UNSCRs 1737 and 1747, as well as autonomous financial measures the German Government has taken to prevent Iranian proliferation efforts in Germany. Because the German Government views Iran as primarily a foreign policy problem, Wenzel explained, the Finance Ministry's role in interagency discussions has been limited to providing an assessment of the financial implications of measures under consideration. He noted that the Chancellery and the MFA have had the lead on the issue.

13. (S) ECONCOUNS expressed appreciation for Chancellor Merkel's strong statements on Iran in the wake of her November visit to Crawford and noted the German Government's ongoing moral suasion efforts with German banks and exporters. Wenzel said the Chancellery had not yet provided the Finance Ministry with an "authoritative interpretation" of what the Chancellor had in mind when she called for Germany to "take a closer look" at business ties with Iran.

He noted that German industry representatives continue to express concern about expanding economic sanctions to sectors and/or entities that are not as clearly linked to Iran's proliferation-related efforts.

¶4. (S) Wenzel said German exporters continue to reject the notion that they should cut long-standing business ties with Iran when other countries are "undercutting" German efforts by not going beyond measures stipulated in UNSCRs 1737 and 1747. In addition to China and Russia, Wenzel also described a lingering perception among German exporters that U.S. companies are using subsidiaries in third countries to bypass U.S. sanctions. ECONCOUNS stated that U.S. law prohibits U.S. companies from engaging in such practices and provided Wenzel with additional information about U.S. legislation and related law enforcement actions.

¶5. (S) Wenzel said the German Government concurs with the NIE assessment that Iran's enrichment- and missile-related activities continue to pose a threat, but speculated that the timing of the NIE's release had lowered the probability of getting China and Russia to agree to a strong third resolution. Nonetheless, Wenzel said, Germany continues to prefer UN action over autonomous measures. Globalization, he continued, has made it easier for countries to evade economic and financial sanctions. Wenzel expressed particular concern that Swiss banks might undermine possible EU autonomous measures. He also noted that Iran has begun to "diversify" its trading relationships, pointing to the recent Sinopec deal to develop Iran's Yadavaran oil field.

¶6. (S) In response to a question, Wenzel stated that, unless an Iranian bank is the subject of UN or EU listings, German Government regulators would need evidence of wrongdoing - e.g., involvement in proliferation-related activities or

other action in violation of UN or EU sanctions - in order to revoke a bank's operating license or otherwise suspend a bank's activities. Under German law, Wenzel said, banks and affected exporters have legal recourse to challenge a government decision and to sue the Government - and responsible government officials - for compensation and damages. As a result, German authorities would require evidence suitable for possible presentation in a court of law in order to take autonomous action against Iranian banks operating in Germany, Wenzel said.

¶7. (S) NOTE: Wenzel's assessment is shared by Economics Ministry experts. Economics Ministry Foreign Trade Law Division Deputy Director Ernst Roeder-Messel told ECONOFF December 7 that Germany's Foreign Trade and Payments Act (FTPA) only permits the Government to suspend foreign trade-related transactions on a temporary basis, i.e. for a period of up to six months. In order to suspend a bank's activities beyond six months, the German Government would need to draft a new regulation subject to the approval of the EU Council (see ref A). In the absence of evidence of continued support for proliferation-related activities, Roeder-Messel said, German regulations would also preclude the German Government from suspending entirely the activities of Bank Sepah, which is permitted under UNSCR 1747 to fulfill old contracts as long as it notifies the UN Sanctions Committee. Roeder-Messel quickly offered assurances that Sepah's activities are closely monitored by German authorities. END NOTE.

¶8. (S) Wenzel noted that the German Federal Financial Monitoring Authority (BaFin) had stepped up its oversight of Iranian banks operating in Germany in the wake of UNSCRs 1737/1747. He added, however, that German regulators need to demonstrate cause to conduct audits and, in many cases, have hesitated to do so in order to prevent shifting of funds. Asked about the German Government's moral suasion efforts with German banks, Wenzel noted that the Finance Ministry had instructed BaFin to disseminate the FATF statement on Iran in order to stress the need for extra due diligence (ref B). Ultimately, however, German banks' decision to limit their Iran-related exposure was driven by the banks' own risk

assessment and cost-benefit analysis, he said. In some cases, banks have concluded that additional due diligence would make business with Iran too costly and/or not worth the reputational risk. He noted it is difficult for the German Government to talk to banks about the issue, primarily because most banks instinctively inquire about government compensation. Banks follow the news closely, Wenzel stated, and "will make their own informed decisions."

¶9. (S) Turning to export credits, Wenzel said that Hermes export credit guarantees for Iran are already categorized as "high risk." He noted that "business is down," explaining that new export credit guarantees are limited to small, short-term contracts. German exporters are well aware that "now is not the time to do business with Iran." (NOTE: The MFA and Economics Ministry have made similar observations in our ongoing discussions on this topic. In addition, the Economics Ministry's Roeder-Messell pointed out that Hermes scrutinizes applications carefully. In red-flag cases - i.e., where there is a risk that proliferation-related entities and/or goods/services might be involved - Hermes officials will either deny the application outright or consult with experts in the Federal Office of Economics and Export Controls (BAFA), MFA, BaFin, and security services on a case-by-case basis. Roeder-Messell noted that special attention is given to screening for front organizations for UN/EU-listed entities. END NOTE.)

¶10. (S) COMMENT: Wenzel approached the meeting with considerably more caution and trepidation than other German interlocutors, providing numerous arguments against autonomous sanctions and offering little with regard to next steps. The interaction highlighted the Ministry of Finance's worries that autonomous sanctions coupled with increased government pressure on German companies with trade ties to Iran would result both in the permanent loss of long-term business relationships and expose the government to legal uncertainty. The strong impression left was that in any German interagency discussions on next steps, the Ministry of Finance will sound a strong note of caution on Germany stepping ahead of the UN. END COMMENT.

TIMKEN JR